

UNITED STATES DISTRICT COURT

for the

District of Minnesota

UNITED STATES OF AMERICA

v.

Case No.

13-MJ-380-256

LEOPOLDO RIVERA-LEAL,

CRIMINAL COMPLAINT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about May 7, 2013, in Owatonna County, in the State and District of Minnesota, the defendant, Leopoldo RIVERA-LEAL, an alien who had previously been removed from the United States on multiple occasions, most recently on or about July 27, 2005, subsequent to a conviction for an aggravated felony, namely burglary of a habitation, in the State of Texas, on or about September 9, 1991, thereafter knowingly and unlawfully entered and was found in the United States without obtaining permission from the Attorney General or the Secretary of Homeland Security to re-apply for admission into the United States, all in violation of Title 8, United States Code, Sections 1326(a) and (b)(2).

I further state that I am a Deportation Officer with the Department of Homeland Security-Office of Immigration and Customs Enforcement, and that this complaint is based upon the following facts:


SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


Ricky R. Kriesel
Deportation Officer
Immigration and Customs Enforcement

Sworn to before me and signed in my presence.

Date: 5/23/13


Magistrate Judge Jeanne J. Graham
United States District Court

City and state: St. Paul, MN

SCANNED

MAY 23 2013

U.S. DISTRICT COURT ST. PAUL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF Ricky R. Kriesel

Ricky R. Kriesel, being duly sworn, deposes and states as follows:

1. I am and have been employed with Immigration and Customs Enforcement (ICE) since March of 2003. I began my career as a Detention Enforcement Officer with the Immigration Naturalization Service in July 2002. In September 2007 my position was upgraded to that of Immigration Enforcement Agent. In May 2008 I was promoted to that of Supervisory Immigration Enforcement Agent. In February 2009 I was promoted to Deportation Officer.
2. As a Deportation Officer, my duties and responsibilities include overseeing the removal proceedings of aliens. I am also responsible for making arrests of aliens, reviewing alien files (commonly known as "A-files") in connection with the detention and release of aliens in ICE custody, and making custody determinations.
3. This Affidavit is based on my training, experience, personal knowledge, discussions with other law enforcement officers and agents directly involved in this investigation, and my review of official reports and documents related to this investigation.
4. This Affidavit is made for the purpose of establishing probable cause in support of a federal criminal complaint and arrest warrant and, therefore, contains only a summary of relevant facts. Based upon all the facts and information set forth in this Affidavit, I believe that probable cause exists to support that, on or about May 7, 2013, in the city of Owatonna, Steele County, in the State and District of Minnesota, Leopoldo RIVERA-LEAL, a citizen and national of Mexico, unlawfully re-entered and was found in the United States after having been previously removed, without having

obtained the consent of the Attorney General or his successor, the Secretary of Homeland Security, to re-apply for admission to the United States, and that RIVERA-LEAL's removal was subsequent to a conviction for commission of an aggravated felony, namely, 1st degree burglary of a habitation in Hidalgo County District Court, 370th Judicial District, City of Edinburg, State of Texas, in 1991; all in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2) and Title 6, United States Code, Sections 202 and 557.

5. On October 10, 2012, Defendant was encountered by an ICE Fugitive Operations Team in the city of Owatonna, MN. Defendant was a target of an ICE investigation. Deportation Officer Scott Ladwig determined that the Defendant was an alien unlawfully present in the United States without proper immigration documents which would allow the Defendant to be in, pass through, or remain in the United States legally. During a search incident to the arrest of the Defendant, narcotics and a firearm were located on his person. The Defendant was turned over to the Owatonna Police Department for prosecution.
6. On or about October 11, 2012, the Defendant was charged by criminal complaint in Steele County District Court, State of Minnesota, with 5th degree possession of drugs and possession of a firearm by a convicted felon. On or about March 1, 2013, the Defendant pled guilty to 5th degree possession of drugs and the firearms charge was dismissed. On or about May 6, 2013, the Defendant was sentenced to 15 months imprisonment (stayed) and a term of probation of five (5) years. On or about May 7, 2013, the Defendant was turned over to ICE officers pursuant to a detainer and

transported to the ICE office in Bloomington, MN for processing.

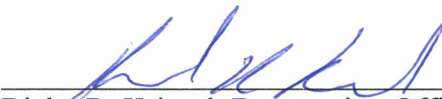
7. At the ICE facility, Defendant's fingerprints were rolled, scanned and electronically submitted into the Department of Homeland Security's Automated Biometric Identification System (IDENT) and the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System (IAFIS). IDENT and IAFIS positively matched and linked the Defendant's fingerprints to alien registration number A090 747 219, Federal Bureau of Investigation number 709158NA5, and DHS Fingerprint Identification number (FIN) 17409385, revealing the Defendant's previous immigration and criminal history.
8. On or about September 9, 1991, the Defendant was convicted in Hidalgo County District Court, 370th Judicial District, City of Edinburg, State of Texas, of 1st degree burglary of a habitation, and ordered confined for 10 years to the Texas Department of Criminal Justice.
9. Based on IAFIS and IDENT identification of the Defendant's prior history, I reviewed the Defendant's immigration alien file (hereinafter "A-file") A090 747 219. Defendant's A-file contains photographs, fingerprints and immigration documents identifying the Defendant as a citizen and national of Mexico. Defendant was ordered removed and physically removed from the United States to Mexico following his conviction for an aggravated felony. Defendant was ordered removed from the United States by an Immigration Judge in Huntsville, Texas on or about February 4, 1997 and physically removed to Mexico on or about February 5, 1997.
10. The Defendant's A-file contains immigration records that confirm he has previously

been arrested by ICE and removed from the United States on three (3) prior occasions: on or about February 5, 1997, through Laredo, Texas, port of entry; on or about April 30, 1999, through Brownsville, Texas, port of entry; and, most recently, on or about July 27, 2005, through Laredo, Texas, port of entry.

11. Law enforcement has confirmed through fingerprints contained in the Defendant's criminal history and immigration file that the individual named Leopoldo RIVERA-LEAL, referenced in those records is, in fact, the same person who is currently in ICE custody and was encountered on or about October 10, 2012, by Immigration and Customs Enforcement (ICE) officers in Owatonna, MN.
12. Defendant is subject to removal as an alien who re-entered the U.S. without permission by the Attorney General or Secretary of Homeland Security as defined in INA Section 241(a)(5) codified under 8 USC 1231(a)(5). Defendant is currently detained in ICE custody as mandatory detention per INA Section 241(a)(2) codified under 8 USC 1231(a)(2) due to his illegal re-entry into the United States.
13. My investigation has revealed that the Defendant is a citizen and national of Mexico who makes no claim to United States citizenship or lawful permanent residence status in the United States, nor does he have documents to enter, pass through, or remain in the United States.
14. My investigation has revealed that since his first removal from the United States on October 15, 2003, the Defendant has not applied for, nor received, permission to enter the United States from the Attorney General, his successor, the Secretary of Homeland Security, or any other designated and authorized representative.

15. Based upon all of the foregoing facts, I believe that probable cause exists that Leopoldo RIVERA-LEAL is in violation of Title 8, United States Code, Sections 1326(a) & (b)(2) and Title 6, United States Code, Sections 202 and 557, Re-entry after removal, in that Defendant was ordered removed, subsequently removed, and then found in the United States without consent of the Attorney General, or the Secretary of the Department of Homeland Security, following the conviction of an aggravated felony.

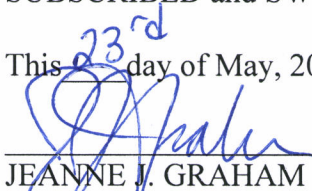
16. Further Your Affiant Sayeth Not.



Ricky R. Kriesel, Deportation Officer
Immigration and Customs Enforcement

SUBSCRIBED and SWORN to Before Me

This ^{23rd} day of May, 2013.



JEANNE J. GRAHAM
United States Magistrate Judge